

**OSCAR VENTANILLA, PETITIONER, VS. HONORABLE L. PASICOLAN,
JUDGE OF THE COURT OF FIRST INSTANCE OF NUEVA ECIJA,
RESPONDENTS.***G.R. No. L-6822. April 29, 1954*

Ponente: REYES, J.

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This is a petition for certiorari arising from an action for unlawful detainer instituted in the Municipal Court of Cabanatuan, Nueva Ecija, by the Bishop of San Fernando, Philippines, as lessor, against the herein petitioner, Oscar Ventanilla, as lessee, in which action the lessor, in asking for the ouster of the lessee from the leased premises by reason of the expiration of the lease, also asked for the "surrender" of the improvements which the lessee had constructed thereon, consisting of a theater and a hotel, it being alleged that, according to the terms of the lease, those improvements were automatically to become the property of the lessor in case the lessee should fail to vacate forty days after notice to do so. On the theory that this claim to the improvements raised a question of ownership, the municipal judge, after hearing the evidence, declared himself without jurisdiction and certified the case to the Court of First Instance of Nueva Ecija "for trial." Upon receipt of the case in that court, the Judge thereof, the Honorable L. Pasicolan, had it docketed and numbered, and, being of the opinion that the claim to the improvements was a mere incident of the detainer case which could properly be passed upon by the municipal court, *motu proprio* ordered the case remanded to said court for further action. Reconsideration of this order having been denied, the lessee brought the case here by certiorari, alleging that the Municipal Court in certifying the case to the Court of First Instance and the latter court in ordering the case docketed and *motu proprio* remanding it thereafter to the Municipal Court, acted in excess of their jurisdiction and with grave abuse of discretion.

There is no provision in the Rules of Court authorizing a municipal judge to certify a detainer case to the Court of First Instance when, after trial, he finds that he has no jurisdiction over the same. The former rule of procedure authorizing such a course was criticized in a decision of this Court and was for that reason not incorporated in the present Rules. (II Moran on the Rules of Court, 1952, ed., pp. 300-301.) What, therefore, the municipal judge in this case should have done was to dismiss the action, not to send it up to the Court of First Instance "for trial." This latter course is not authorized and savours of a directive from a lower to a higher court.

Not having been properly elevated to the Court of First Instance, the case was, we think, properly ordered returned by the respondent Judge to the court of origin "for proper action," it being clear from the order of the municipal judge that he had not meant to dismiss the same.

Section 96 of Republic Act No. 296, commonly known as the Judiciary Act of 1948, which directs the District Judge to advise and instruct a justice of the peace whenever requested or when occasion arises and which the respondent Judge invoked when his order remanding the case was questioned, may be of doubtful application because it apparently refers to administrative matters. But be that as it may, we are of the opinion that the

respondent Judge did not abuse his discretion but, on the contrary, only did what was proper and necessary, when he remanded to the court of origin a case which had been erroneously elevated to his court by mere certification and not by any of the procedures authorized in the Rules.

Conformably to the above, the order complained of is affirmed in so far as it remands the case in question to the municipal court for further action; but it is annulled and set aside in so far as it makes a ruling on the jurisdiction of the municipal court without the case having been brought properly before it for determination. Without costs.

Paras, C. J., Pablo, Bengzon, Montemayor, Jugo, Bautista Angelo, and Concepcion, JJ., concur.

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